



Reprinted  
March 2, 2006

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## ENGROSSED HOUSE BILL No. 1099

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DIGEST OF HB 1099 (Updated March 1, 2006 8:26 pm - DI 96)

**Citations Affected:** IC 22-11; IC 35-47; noncode.

**Synopsis:** Fireworks sales and discharge. Renames certain common fireworks as consumer fireworks. Authorizes the use of consumer fireworks on the property of the purchaser, on the property of another who has given permission for the use, and at special discharge locations. Authorizes the fire prevention and building safety commission to adopt rules specifying the conditions under which certain fire chiefs may grant a permit to a person to sponsor a special fireworks discharge location. Establishes requirements for the tent or  
(Continued next page)

**Effective:** Upon passage; May 1, 2006; June 1, 2006.

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**Frizzell, Crooks**

(SENATE SPONSORS — WEATHERWAX, LEWIS)

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January 5, 2006, read first time and referred to Committee on Public Policy and Veterans Affairs.  
January 26, 2006, reported — Do Pass.  
January 31, 2006, read second time, amended, ordered engrossed.  
February 1, 2006, engrossed.  
February 2, 2006, read third time, recommitted to Committee of One, amended; passed.  
Yeas 64, nays 30.  
February 3, 2006, re-engrossed.

SENATE ACTION

February 7, 2006, read first time and referred to Committee on Tax and Fiscal Policy.  
February 23, 2006, amended, reported favorably — Do Pass.  
March 1, 2006, read second time, amended, ordered engrossed.

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structure in which consumer fireworks may be sold. Establishes annual registration fees for the retail sale of consumer fireworks. Removes the requirement that a purchaser of consumer fireworks provide a written assurance that the consumer fireworks will be shipped out of Indiana within five days of purchase. Provides that a person is strictly liable for death, bodily injury, or property damage caused by that person's use of consumer fireworks. Establishes various penalties for: (1) the ignition, discharge, possession, or use of certain fireworks under certain conditions or at other than certain locations; or (2) the purchase or sale of certain fireworks by a person less than 18 years of age. Requires an individual to be at least 18 years of age to sell fireworks. Prohibits the sale of fireworks at retail from a motor vehicle. (Current law prohibits the sale of retail fireworks from a truck, van, or automobile.) Establishes a public safety fee of 4% on the retail sale of fireworks. Provides that the fee is to be collected by the department of state revenue and deposited in the state general fund. Requires certain persons that treat a person for an injury that the practitioner or administrator identifies as resulting from fireworks or pyrotechnics to report the injury to the state department of health. Provides that the report is confidential. Repeals an expired section of the Indiana Code. Makes conforming amendments. Makes a technical correction. Makes an appropriation from public safety fees to the department of homeland security for certain training programs.

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Reprinted  
March 2, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1099

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A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 22-11-14-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this  
3 chapter and IC 22-11-14.5:  
4 "Auto burglar alarm" means a tube that contains pyrotechnic  
5 composition that produces a loud whistle or smoke when ignited. A  
6 small quantity of explosive, not exceeding fifty (50) milligrams, may  
7 also be used to produce a small report. A squib is used to ignite the  
8 device.  
9 "Booby trap" means a small tube with string protruding from both  
10 ends, similar to a party popper in design. The ends of the string are  
11 pulled to ignite the friction sensitive composition, producing a small  
12 report.  
13 "Chaser" means a device, containing fifty (50) milligrams or less of  
14 explosive composition, that consists of a small paper or cardboard tube  
15 that travels along the ground upon ignition. A whistling effect is often  
16 produced, and a small noise may be produced.  
17 "Cigarette load" means a small wooden peg that has been coated

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with a small quantity of explosive composition. Upon ignition of a cigarette containing one of the pegs, a small report is produced.

~~"Common "~~**"Consumer** firework" means a small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred thirty (130) milligrams or less of explosive composition. Propelling or expelling charges consisting of a mixture of charcoal, sulfur, and potassium nitrate are not considered as designed to produce an audible effect. ~~Common Consumer~~ fireworks:

(1) include:

~~(A) ground and hand held sparkling devices, which include dipped stick, certain wire sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, and flitter sparklers;~~

~~(B)~~ (A) aerial devices, which include sky rockets, missile type rockets, helicopter or aerial spinners, roman candles, mines, and shells;

~~(C)~~ (B) ground audible devices, which include firecrackers, salutes, and chasers; and

~~(D)~~ (C) firework devices containing combinations of two (2) or more of the effects described in the preceding three (3) clauses; and

(2) do not include the following novelties and trick noisemakers:

(A) Snakes or glow worms.

(B) Smoke devices.

(C) Wire sparklers which contain no magnesium and which contain less than one hundred (100) grams of composition per item.

(D) Trick noisemakers, which include party poppers, booby traps, snappers, trick matches, cigarette loads, and auto burglar alarms.

"Cone fountain" means a cardboard or heavy paper cone which contains up to fifty (50) grams of pyrotechnic composition, and which produces the same effect as a cylindrical fountain.

"Cylindrical fountain" means a cylindrical tube not exceeding three-quarters (3/4) inch in inside diameter and containing up to seventy-five (75) grams of pyrotechnic composition. Fountains produce

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a shower of color and sparks upon ignition, and sometimes a whistling effect. Cylindrical fountains may contain a spike to be inserted in the ground (spike fountain), a wooden or plastic base to be placed on the ground (base fountain), or a wooden handle or cardboard handle for items designed to be hand held (handle fountain).

**"Department" means the department of homeland security established under IC 10-19-2-1.**

"Dipped stick" or "wire sparkler" means a ~~common~~ **consumer** firework that consists of a stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition does not exceed one hundred (100) grams per item. Those devices containing chlorate or perchlorate salts do not exceed five (5) grams in total composition per item. Wire sparklers that contain no magnesium and that contain less than one hundred (100) grams of composition per item are not included in the category of ~~common~~ **consumer** fireworks.

"Distributor" means a person who sells fireworks to wholesalers and retailers for resale.

"Explosive composition" means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited.

"Firecracker" or "salute" is a device that consists of a small paper wrapped or cardboard tube containing not more than fifty (50) milligrams of pyrotechnic composition and that produces, upon ignition, noise, accompanied by a flash of light.

"Firework" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of ~~common~~ **consumer** fireworks, **fireworks referenced in section 8(a) of this chapter**, and special fireworks. The following items are excluded from the definition of fireworks:

- (1) Model rockets.
- (2) Toy pistol caps.
- (3) Emergency signal flares.
- (4) Matches.
- (5) Fixed ammunition for firearms.
- (6) Ammunition components intended for use in firearms, muzzle loading cannons, or small arms.
- (7) Shells, cartridges, and primers for use in firearms, muzzle loading cannons, or small arms.
- (8) Indoor pyrotechnics special effects material.
- (9) **M-80s, cherry bombs, silver salutes, and any device**



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**banned by the federal government.**

"Flitter sparkler" means a narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. These devices do not use a fuse for ignition, but rather are ignited by igniting the paper at one (1) end of the tube.

"Ground spinner" means a small spinning device that is similar to wheels in design and effect when placed on the ground and ignited, and that produces a shower of sparks and color when spinning.

"Helicopter" or "aerial spinner" is a spinning device:

(1) that consists of a tube up to one-half (1/2) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition;

(2) to which some type of propeller or blade device is attached; and

(3) that lifts into the air upon ignition, producing a visible or audible effect at the height of flight.

"Illuminating torch" means a cylindrical tube that:

(1) contains up to one hundred (100) grams of pyrotechnic composition;

(2) produces, upon ignition, a colored fire; and

(3) is either a spike, base, or handle type device.

"Importer" means:

(1) a person who imports fireworks from a foreign country; or

(2) a person who brings or causes fireworks to be brought within this state for subsequent sale.

"Indoor pyrotechnics special effects material" means a chemical material that is clearly labeled by the manufacturer as suitable for indoor use (as provided in National Fire Protection Association Standard 1126 (2001 edition)).

"Interstate wholesaler" means a person who is engaged in interstate commerce selling fireworks. ~~not approved for sale in Indiana.~~

"Manufacturer" means a person engaged in the manufacture of fireworks.

"Mine" or "shell" means a device that:

(1) consists of a heavy cardboard or paper tube up to two and one-half (2 1/2) inches in inside diameter, to which a wooden or plastic base is attached;

(2) contains up to forty (40) grams of pyrotechnic composition; and

(3) propels, upon ignition, stars (pellets of pressed pyrotechnic composition that burn with bright color), whistles, parachutes, or combinations thereof, with the tube remaining on the ground.

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"Missile-type rocket" means a device that is similar to a sky rocket in size, composition, and effect, and that uses fins rather than a stick for guidance and stability.

"Party popper" means a small plastic or paper item containing not more than sixteen (16) milligrams of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

"Person" means an individual, an association, an organization, a limited liability company, or a corporation.

"Pyrotechnic composition" means a mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. Pyrotechnic compositions will not explode upon ignition unless severely confined.

**"Responding fire department" means the paid fire department or volunteer fire department that renders fire protection services to a political subdivision.**

"Retail sales stand" means a temporary business site or location where goods are to be sold.

"Retailer" means a person who purchases fireworks for resale to consumers.

"Roman candle" means a device that consists of a heavy paper or cardboard tube not exceeding three-eighths (3/8) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition. Upon ignition, up to ten (10) stars (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several second intervals.

"Sky rocket" means a device that:

- (1) consists of a tube that ~~does not exceed one-half (1/2) inch in inside diameter and that contains up to twenty (20) grams of~~ pyrotechnic composition;
- (2) contains a ~~wooden~~ stick for guidance and stability; and
- (3) rises into the air upon ignition, producing a burst of color or noise at the height of flight.

"Smoke device" means a tube or sphere containing pyrotechnic composition that produces white or colored smoke upon ignition as the primary effect.

"Snake" or "glow worm" means a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices do not contain mercuric thiocyanate.

"Snapper" means a small, paper wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When

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dropped, the device explodes, producing a small report.

**"Special discharge location" means a location designated for the discharge of consumer fireworks by individuals in accordance with rules adopted under section 3.5 of this chapter.**

"Special fireworks" means fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, including firecrackers containing more than one hundred thirty (130) milligrams of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic composition, and other exhibition display items that exceed the limits for classification as ~~common~~ **consumer** fireworks.

"Trick match" means a kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match, a small report or a shower of sparks is produced.

"Trick noisemaker" means an item that produces a small report intended to surprise the user.

"Wheel" means a pyrotechnic device that:

- (1) is attached to a post or tree by means of a nail or string;
- (2) contains up to six (6) driver units (tubes not exceeding one-half (1/2) inch in inside diameter) containing up to sixty (60) grams of composition per driver unit; and
- (3) revolves, upon ignition, producing a shower of color and sparks and sometimes a whistling effect.

"Wholesaler" means a person who purchases fireworks for resale to retailers.

SECTION 2. IC 22-11-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The fire prevention and building safety commission ~~may~~ **shall**:

- (1) adopt rules under IC 4-22-2 for the granting of permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals; and
  - (2) establish by rule the fee for the permit, which shall be paid into the fire and building services fund created under IC 22-12-6-1.
- (b) The application for a permit required under subsection (a) must:
- (1) name a competent operator who is to officiate at the display;
  - (2) set forth a brief resume of the operator's experience;
  - (3) be made in writing; and
  - (4) be received with the applicable fee by the ~~office of the state fire marshal~~ **division of fire and building safety** at least five (5) business days before the display.

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No operator who has a prior conviction for violating this chapter may operate any display for one (1) year after the conviction.

(c) Every display shall be handled by a qualified operator approved by the chief of the fire department of the municipality in which the display is to be held. A display shall be ~~so~~ located, discharged, or fired as, in the opinion of:

(1) the chief of the fire department of the city or town in which the display is to be held; or

(2) the township fire chief or the fire chief of the municipality nearest the site proposed, in the case of a display to be held outside of the corporate limits of any city or town; after proper inspection, is not hazardous to property or person.

(d) A permit granted under this section is not transferable.

(e) A denial of a permit by a municipality shall be issued in writing before the date of the display.

(f) A person ~~who possesses, transports, or delivers~~ **may not possess, transport, or deliver special** fireworks, except as authorized under this section. ~~commits a Class A misdemeanor.~~

SECTION 3. IC 22-11-14-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. The fire prevention and building safety commission may adopt rules under IC 4-22-2 that specify the conditions under which the chief of a municipal or township fire department may grant a permit to a person to sponsor a special discharge location in the municipality or township.**

SECTION 4. IC 22-11-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Nothing in this chapter shall be construed to prohibit:

(1) any resident wholesaler, manufacturer, importer, or distributor from selling:

(A) at wholesale fireworks not prohibited by this chapter; or

(B) **consumer** fireworks ~~not approved for sale in Indiana~~ if they are to be ~~shipped directly out of state within five (5) days of the date of sale; used:~~

(i) **on the property of the purchaser;**

(ii) **on the property of another who has given permission to use the consumer fireworks; or**

(iii) **at a special discharge location as set forth in section 3.5 of this chapter;**

(2) the use of fireworks by railroads or other transportation agencies for signal purposes or illumination;

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(3) the sale or use of blank cartridges for:

(A) a show or theater;

(B) signal or ceremonial purposes in athletics or sports; or

(C) use by military organizations;

(4) the intrastate sale of fireworks not approved for sale in Indiana between interstate wholesalers;

(5) the possession, sale, or disposal of fireworks, incidental to the public display of Class B fireworks, by wholesalers or other persons who possess a permit to possess, store, and sell Class B explosives from the Bureau of Alcohol, Tobacco, ~~and~~ Firearms **and Explosives of the** United States Department of ~~the Treasury;~~ **Justice;** or

(6) the use of indoor pyrotechnics special effects material before an indoor or outdoor proximate audience.

(b) For the purposes of this section, a resident wholesaler, importer, or distributor, is a person who:

(1) is a resident of Indiana;

(2) possesses for resale ~~common~~ fireworks approved or not approved for sale in Indiana;

(3) is engaged in the interstate sale of ~~common~~ fireworks described in subdivision (2) as an essential part of a business that is located in a permanent structure and is open at least six (6) months each year; **and**

(4) sells ~~common~~ fireworks described in subdivision (2) only to purchasers who provide a written and signed assurance that the fireworks are to be shipped out of Indiana within five (5) days of the date of sale; **and**

~~(5)~~ (4) has possession of a certificate of compliance issued by the state fire marshal under section 5 of this chapter.

~~(c) A purchaser may not provide a written and signed assurance that the fireworks purchased are to be shipped out of Indiana and then sell or use them in Indiana.~~

SECTION 5. IC 22-11-14-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.5. (a) A retailer may sell consumer fireworks from a tent under the following conditions:**

(1) The tent may not be larger than one thousand five hundred (1,500) square feet.

(2) There may be only one (1) tent for each registration granted under section 5(b)(3) of this chapter.

(3) The tent may not be located closer than one hundred (100) feet from a permanent structure.

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(4) A vehicle may not be parked closer than twenty (20) feet from the edge of the tent.

(5) The tent must be fire retardant.

(6) The sales site must comply with all applicable local zoning and land use rules.

(7) Sales of fireworks may be made from the tent for not more than forty-five (45) days in a year.

(8) The weight of consumer fireworks in a tent may not exceed three thousand (3,000) gross pounds of consumer fireworks.

(9) A retailer that legally operated a tent with a registration in 2005 may continue operation in a tent in 2006 and the following years. A registration under section 5(b)(3) of this chapter is required for operation in 2006 and following years.

(10) The retailer holds a valid registration under section 5(b)(3) of this chapter. For purposes of this subdivision, a retailer includes a resident wholesaler who supplied consumer fireworks to an applicant for a tent registration in 2005.

(b) A retailer may sell consumer fireworks from a Class 1 structure (as defined in IC 22-12-1-4) that:

(1) complied with the rules for a B-2 or M building occupancy before July 4, 2003, under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1:

(A) in which consumer fireworks were sold or stored on or before July 4, 2003; and

(B) in which no subsequent intervening nonfireworks sales or storage use has occurred;

(2) complies with the rules for an H-3 building occupancy under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1, or the equivalent occupancy classification adopted by subsequent rules of the fire prevention and building safety commission;

(3) complied with the rules for a B-2 or M building occupancy before July 4, 2003, under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1;

(A) in which 1.4G fireworks were sold or stored on or before July 4, 2003;

(B) in a location at which the retailer was registered as a resident wholesaler in 2005; and

(C) in which the retailer's primary business is not the sale

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1 of consumer fireworks; or  
 2 (4) complies with the rules adopted after July 3, 2003, by the  
 3 fire prevention and building safety commission established  
 4 under IC 22-12-2-1 for an M building occupancy under the  
 5 Indiana building code.

6 A registration under section 11(a) of this chapter is required for  
 7 operation in 2006 and following years.

8 (c) This subsection does not apply to a structure identified in  
 9 subsection (b)(1), (b)(2), (b)(3), or(b)(4). A retailer may sell  
 10 consumer fireworks from a structure under the following  
 11 conditions:

12 (1) The structure must be a Class 1 structure used for the sale  
 13 and storage of consumer fireworks.

14 (2) The sales site must comply with all applicable local zoning  
 15 and land use rules.

16 (3) The weight of consumer fireworks in the structure may  
 17 not exceed three thousand (3,000) gross pounds of consumer  
 18 fireworks.

19 (4) The retailer holds a valid registration under section 11(a)  
 20 of this chapter.

21 (5) A retailer that legally operated from a structure with a  
 22 registration in 2005 may continue in operation in the  
 23 structure in 2006 and the following years. A registration  
 24 under section 11(a) of this chapter is required for operation  
 25 in 2006 and following years.

26 (d) The state fire marshal or a member of the division of fire  
 27 and building safety staff shall, under section 9 of this chapter,  
 28 inspect tents and structures in which common fireworks are sold.  
 29 The state fire marshal may delegate this responsibility to a  
 30 responding fire department with jurisdiction over the tent or  
 31 structure subject to the policies and procedures of the state fire  
 32 marshal.

33 (e) A retailer shall file an application for each retail location on  
 34 a form to be provided by the state fire marshal.

35 (f) This chapter does not limit the quantity of fireworks that  
 36 may be sold from any Class I structure that complies with the rules  
 37 of the fire prevention and building safety commission in effect  
 38 before May 21, 2003.

39 SECTION 6. IC 22-11-14-5 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The state fire  
 41 marshal shall remove at the expense of the owner, all stocks of  
 42 fireworks or combustibles possessed, transported, or delivered in

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violation of this chapter.

(b) The state fire marshal shall stop the shipments and sale of fireworks, novelties, and trick noisemakers unless, prior to shipment into this state for sale, the manufacturer, wholesaler, importer, or distributor of the fireworks, novelties, and trick noisemakers submits to the state fire marshal:

(1) a complete description of each item proposed to be shipped into Indiana;

(2) a written certification that the items are manufactured in accordance with section 1 of this chapter; and

(3) an annual registration fee of one thousand dollars (\$1,000).

**The registration fee shall be collected by the state fire marshal and deposited in the fire and building services fund as set forth in IC 22-12-6-1(c).**

If upon inspection the state fire marshal finds that this chapter has been complied with, an annual certificate of compliance shall be issued to the manufacturer, wholesaler, importer, or distributor. An annual certificate of compliance **may not be applied for after June 15 of a year and** expires December 31 of the year ~~during in~~ which the certificate is issued. Each manufacturer, wholesaler, importer, or distributor must obtain a certificate of compliance. The certificate is not transferable. ~~except that A retailer that offers the items for sale to the public is entitled to receive a certified copy of the certificate from the manufacturer, wholesaler, importer, or distributor from which the retailer purchases the items.~~ A certified copy of the certificate of compliance must be posted in each location where the items are offered for sale to the public. If upon inspection the state fire marshal finds that this chapter has not been complied with, the state fire marshal shall refuse to issue a certificate of compliance and state the reasons for the refusal. A copy of the order denying the issuance of a certificate of compliance and the reasons shall be forwarded to the manufacturer, wholesaler, importer, or distributor. The state fire marshal may revoke any certificate of compliance issued to any manufacturer, wholesaler, importer, or distributor if the holder of the certificate has violated this chapter.

(c) All fireworks, novelties, and trick noisemakers shipped into Indiana, or manufactured and sold in Indiana, must have distinctly and durably painted, stamped, printed, or marked on the package, box, or container in which the items are enclosed the exact number of pieces in the container.

(d) It is unlawful for a manufacturer, wholesaler, importer, or distributor to sell at wholesale, offer to sell at wholesale, or ship or

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cause to be shipped into Indiana fireworks, novelties, or trick noisemakers unless the manufacturer, wholesaler, importer, or distributor has been issued and holds a valid certificate of compliance issued under subsection (b). This subsection applies to nonresidents and residents of Indiana.

SECTION 7. IC 22-11-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A person who **recklessly, knowingly, or intentionally** violates ~~section 4(c)~~, **section 2(f), 4.5, 5(c), 5(d), 7, or 8 8(a), 8(c), 10, or 11 (b)** of this chapter commits a Class A misdemeanor.

(b) A person who ignites, discharges, or uses consumer fireworks at a site other than:

- (1) a special discharge location;
- (2) the property of the person; or
- (3) the property of another who has given permission to use the consumer fireworks;

commits a Class C infraction. However, if a person recklessly, knowingly, or intentionally takes an action described in this subsection not later than five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(c) A person less than eighteen (18) years of age who:

- (1) possesses a:
  - (A) firework;
  - (B) novelty; or
  - (C) trick noisemaker;
 other than those set forth in section 8(a) of this chapter; or
- (2) uses a firework when an adult is not present and responsible at the location of the use;

commits a Class C infraction. However, if a person possesses as described in subdivision (1) or uses as described in subdivision (2) not later than five (5) years after a previous possession or use by the person as described in this subsection, whether or not there has been a judgment that the person committed an infraction in the previous possession or use, the person commits a delinquent act under IC 31-37.

(d) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation causes harm to the property of a person commits a Class A misdemeanor.

(e) A person who recklessly, knowingly, or intentionally uses

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1 consumer fireworks and the violation results in serious bodily  
2 injury to a person v commits a Class D felony.

3 (f) A person who recklessly, knowingly, or intentionally uses  
4 consumer fireworks and the violation results in the death of a  
5 person commits a Class C felony.

6 (g) A person who knowingly fails to collect or remit to the state  
7 the public safety fees due under section 11 of this chapter commits  
8 a Class D felony.

9 SECTION 8. IC 22-11-14-7 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE UPON PASSAGE] 1: Sec. 7. (a) A retailer  
11 selling fireworks at one (1) or more temporary stands must obtain a  
12 fireworks stand retail sales permit, referred to in this section as a  
13 "permit", from the state fire marshal.

14 (b) An application for a permit must be made before June 1 of each  
15 year and must require that at least the following information be  
16 supplied by the retailer:

17 (1) The retailer's retail merchant certificate number or proof of  
18 application for a certificate number.

19 (2) The location of each **retail sales** stand.

20 The state fire marshal shall, within seven (7) days after the receipt of  
21 an application for a permit, either issue the permit or notify the  
22 applicant of the denial of the permit.

23 (c) The retailer must pay to the state fire marshal an annual permit  
24 fee set under IC 22-12-6-8. If the state fire marshal approves an  
25 application for a permit, ~~he~~ **the state fire marshal** shall issue a permit  
26 to the retailer. The permit expires one (1) year after the date of  
27 issuance.

28 (d) The permit shall be posted by the retailer at the **retail sales** stand  
29 so that it is easily seen by the public. However, the state fire marshal's  
30 issuance of a permit does not constitute approval of the fireworks  
31 offered for sale by the retailer. The retailer is responsible for  
32 determining that all fireworks which ~~he~~ **the retailer** offers for sale  
33 conform to applicable law.

34 (e) At each **retail sales** stand, the retailer shall provide:

35 (1) a posted certificate of compliance, including a descriptive list  
36 of approved fireworks; and

37 (2) a ~~supervisor~~ **salesperson** who is at least ~~sixteen (16)~~ **eighteen**  
38 **(18)** years of age.

39 (f) Fireworks may not be sold at retail from ~~trucks, vans, or~~  
40 ~~automobiles:~~ **a motor vehicle (as defined in IC 9-13-2-105).**

41 SECTION 9. IC 22-11-14-8 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A person

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shall not sell at retail, ~~or~~ offer for sale at retail, **or deliver** any fireworks, novelties, or trick noisemakers **to a person less than eighteen (18) years of age** other than the following:

- (1) Dipped sticks or wire sparklers. However, total pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item.
- (2) Cylindrical fountains.
- (3) Cone fountains.
- (4) Illuminating torches.
- (5) Wheels.
- (6) Ground spinners.
- (7) Flitter sparklers.
- (8) Snakes or glow worms.
- (9) Smoke devices.
- (10) Trick noisemakers, which include:
  - (A) Party poppers.
  - (B) Booby traps.
  - (C) Snappers.
  - (D) Trick matches.
  - (E) Cigarette loads.
  - (F) Auto burglar alarms.

**(b) A retailer or wholesaler of consumer fireworks may sell consumer fireworks to a person at least eighteen (18) years of age.**

**(c) An individual who sells fireworks must be at least eighteen (18) years of age.**

**(d) The fire prevention and building safety commission may adopt rules under IC 4-22-2 establishing procedures to ensure compliance with the age limitations set forth in this section.**

SECTION 10. IC 22-11-14-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. A person is strictly liable for death, bodily injury, or property damage caused by that person's use of consumer fireworks.**

SECTION 11. IC 22-11-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. ~~(a)~~ Each interstate wholesaler shall keep a record of each sale of **special** fireworks. ~~not approved for sale in Indiana.~~ This record must include:

- (1) the purchaser's name;
- (2) the purchaser's address; and
- (3) the date of the sale.

These records shall be kept for three (3) years and be available for

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inspection by the fire marshal.

(b) Each resident wholesaler shall post in a prominent location in the wholesaler's place of business a sign that reads as follows:

"Under Indiana law, a resident wholesaler of fireworks may sell fireworks not approved for sale in Indiana only to other resident wholesalers and to purchasers who provide a written and signed assurance that the fireworks are to be shipped out of Indiana within five (5) days of the date of sale. A purchaser who provides a written and signed assurance that fireworks purchased are to be shipped out of Indiana within five (5) days of the date of sale and who then sells the fireworks in Indiana or uses them in Indiana commits a Class A misdemeanor, which is punishable by imprisonment for up to one (1) year and a fine of up to five thousand dollars (\$5,000)."

The state fire marshal shall provide interstate wholesalers with signs for the purposes of this subsection.

SECTION 12. IC 22-11-14-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2006]: **Sec. 11. (a) A retailer may not sell consumer fireworks until the retailer has:**

**(1) filed the application required under section 4.5(e) of this chapter with the state fire marshal for each location from which the retailer proposes to sell the consumer fireworks, which must be filed on an annual basis; and**

**(2) paid an accompanying registration fee of:**

**(A) one thousand dollars (\$1,000) for the first location if a fee under section 5(b)(3) of this chapter has not been paid;**

**(B) five hundred dollars (\$500) for each additional sales location in a tent; and**

**(C) two hundred dollars (\$200) for each additional sales location in a structure;**

**from which the retailer proposes to sell the consumer fireworks.**

Upon receipt of the completed application form, the accompanying fee and if required, the affidavit under subsection (b), the state fire marshal shall issue a certificate of compliance to the retailer for each sales location.

(b) A person seeking a certificate of compliance authorizing the sale of consumer fireworks at retail from a structure identified in section (5)(b)(1), 5(b)(2), 5(b)(3), or 5(b)(4) of this chapter, or from a tent under section 5(a) of this chapter shall submit with the application:

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- (1) an affidavit executed by a responsible party with personal knowledge, establishing that consumer fireworks were sold at retail from a structure at the same location as of the dates set forth in section 5(b)(1), 5(b)(2), 5(b)(3), or 5(b)(4) of this chapter, or from a tent under section 5(a) of this chapter; and  
 (2) proof of sales of consumer fireworks from that location.

(c) A person may not sell consumer fireworks at retail if a certificate of compliance from the state fire marshal has not been issued for the location at which the consumer fireworks will be sold.

(d) A certificate of compliance issued to a retailer of consumer fireworks is not transferable.

SECTION 13. IC 22-11-14-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: **Sec. 12. (a) A user fee, known as the public safety fee, is imposed on retail transactions made in Indiana of fireworks.**

**(b) The person who acquires fireworks in a retail transaction is liable for the public safety fee on the transaction and, except as otherwise provided in this chapter, shall pay the public safety fee to the retailer as a separate added amount to the consideration in the transaction. The retailer shall collect the public safety fee as an agent for the state.**

**(c) The public safety fee shall be deposited in the state general fund.**

**(d) The department of state revenue shall adopt rules under IC 4-22-2 necessary for the collection of the public safety fee monies from retailers as described in subsections (b) and (c).**

SECTION 14. IC 22-11-14-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: **Sec. 13. (a) The public safety fee is measured by the gross retail income received by a retailer in a retail unitary transaction of fireworks and is imposed at the following rates:**

<b>PUBLIC SAFETY FEE</b>	<b>GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION</b>	
<b>\$ 0</b>	<b>less than</b>	<b>\$0.25</b>
<b>\$ 0.01</b>	<b>at least \$ 0.25 but less than</b>	<b>\$0.50</b>
<b>\$ 0.02</b>	<b>at least \$ 0.50 but less than</b>	<b>\$0.75</b>
<b>\$ 0.03</b>	<b>at least \$ 0.75 but less than</b>	<b>\$1.00</b>



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**\$ 0.04 at least \$ 1.00**

**On a retail unitary transaction in which the gross retail income received by the retail merchant is at least one dollar (\$1), the public safety fee is four percent (4%) of that gross retail income.**

**(b) If the public safety fee computed under subsection (a) results in a fraction of one-half cent (\$0.005) or more, the amount of the public safety fee shall be rounded to the next additional cent.**

**SECTION 15. IC 22-11-14-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 14. An individual who:**

**(1) is an individual retailer or is an employee, an officer, or a member of a corporate or partnership retailer; and**

**(2) has a duty to remit the public safety fee as described in section 11 of this chapter to the department of state revenue;**

**holds the public safety fees collected in trust for the state and is personally liable for the payment of the public safety fee money to the state.**

**SECTION 16. IC 22-11-14-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The fire prevention and building safety commission and the department of state revenue shall adopt rules under IC 4-22-2 to carry out this chapter.**

**SECTION 17. IC 35-47-7-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If:**

**(1) a practitioner (as defined in IC 25-1-9-2) initially treats a person for an injury and identifies the person's injury as resulting from fireworks or pyrotechnics, the practitioner; or**

**(2) a hospital or outpatient surgical center initially treats a person for an injury and the administrator of the hospital or outpatient surgical center identifies the person's injury as resulting from fireworks or pyrotechnics, the administrator or the administrator's designee;**

**shall report the case to the state health data center of the state department of health not more than five (5) business days after the time the person is treated. The report may be made in writing on a form prescribed by the state department of health.**

**(b) A person submitting a report under subsection (a) shall make a reasonable attempt to include the following information:**

**(1) The name, address, and age of the injured person.**

**(2) The date and time of the injury and the location where the injury occurred.**

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(3) If the injured person was less than eighteen (18) years of age at the time of the injury, whether an adult was present when the injury occurred.

(4) Whether the injured person consumed an alcoholic beverage within three (3) hours before the occurrence of the injury.

(5) A description of the firework or pyrotechnic that caused the injury.

(6) The nature and extent of the injury.

(c) A report made under this section is confidential for purposes of IC 5-14-3-4(a)(1).

(d) The state department of health shall compile the data collected under this section and submit a report of the compiled data to the legislative council in an electronic format under IC 5-14-6 not later than December 31 of each year.

SECTION 18. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 22-11-14.5-2; IC 35-47-7-6.

SECTION 19. [EFFECTIVE UPON PASSAGE] The department of homeland security shall report to the budget committee by July 1, 2006, on the feasibility of the following:

(1) Creating a regional program to:

(A) train public safety service providers under IC 10-19-9-3; and

(B) provide advanced training programs in public safety and homeland security matters under IC 10-19-9-4.

The report must set out the need for the training, identify possible locations where training could take place, provide an estimate of the costs for providing such training, and include other things the department determines to be relevant.

(2) Establishing a state disaster relief fund to provide:

(A) matching financial assistance to state agencies and political subdivisions under any federal program; and

(B) direct aid to individuals, families, or communities if an emergency event does not receive a presidential major disaster declaration.

SECTION 20. [EFFECTIVE UPON PASSAGE] There is appropriated from the fees collected under IC 22-11-14-11, as added by this act, one million dollars (\$1,000,000) to the department of homeland security to provide regional training for public safety service providers or advanced training programs during the period beginning July 1, 2006, and ending June 30, 2007. Funds appropriated by this SECTION may be allotted by the

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1 budget agency after review by the budget committee.

2 SECTION 21. [EFFECTIVE UPON PASSAGE] (a)  
3 Notwithstanding IC 22-11-14-2(a) and IC 22-11-14-8(d), both as  
4 amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both  
5 as added by this act, the fire prevention and building safety  
6 commission shall carry out the duties imposed upon it by this act  
7 with respect to the matters referred to in IC 22-11-14-2(a) and  
8 IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5  
9 and IC 22-11-14-15, both as added by this act, under interim  
10 written guidelines approved by the state fire marshal.

11 (b) This SECTION expires on the earlier of the following:

12 (1) The date rules are respectively adopted under  
13 IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by  
14 this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as  
15 added by this act.

16 (2) December 31, 2007.

17 SECTION 22. [EFFECTIVE UPON PASSAGE] (a)  
18 Notwithstanding IC 22-11-14-12(d) and IC 22-11-14-15, both as  
19 added by this act, the department of state revenue shall carry out  
20 the duties imposed upon it by this act with respect to the matters  
21 referred to in IC 22-11-14-12(d) and IC 22-11-14-15, both as added  
22 by this act, under interim written guidelines approved by the  
23 commissioner of the department of state revenue.

24 (b) This SECTION expires on the earlier of the following:

25 (1) The date rules are respectively adopted under  
26 IC 22-11-14-12(d) and IC 22-11-14-15, both as added by this  
27 act.

28 (2) December 31, 2007.

29 SECTION 23. An emergency is declared for this act.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred House Bill 1099, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STUTZMAN, Chair

Committee Vote: yeas 9, nays 0.

## HOUSE MOTION

Mr. Speaker: I move that House Bill 1099 be amended to read as follows:

Page 1, delete lines 1 through 9.

Page 3, between lines 14 and 15, begin a new paragraph and insert:

**""Department" means the department of homeland security established under IC 10-19-2-1."**

Page 4, reset in roman line 36.

Page 4, line 37, reset in roman "commerce selling fireworks".

Page 4, line 37, after "fireworks" insert ".".

Page 6, line 28, delete ":".

Page 6, line 29, delete "(1)".

Page 6, line 29, delete ";" and insert ".".

Page 6, run in lines 28 through 29.

Page 6, delete lines 30 through 32, begin a new paragraph and insert:

**"SECTION 2. IC 22-11-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The fire prevention and building safety commission ~~may~~ shall:**

(1) adopt rules under IC 4-22-2 for the granting of permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals; and

(2) establish by rule the fee for the permit, which shall be paid into the fire and building services fund created under IC 22-12-6-1.

(b) The application for a permit required under subsection (a) must:

(1) name a competent operator who is to officiate at the display;

(2) set forth a brief resume of the operator's experience;

(3) be made in writing; and

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(4) be received with the applicable fee by the ~~office of the state fire marshal~~ **division of fire and building safety** at least five (5) business days before the display.

No operator who has a prior conviction for violating this chapter may operate any display for one (1) year after the conviction.

(c) Every display shall be handled by a qualified operator approved by the chief of the fire department of the municipality in which the display is to be held. A display shall be ~~so~~ located, discharged, or fired as, in the opinion of:

(1) the chief of the fire department of the city or town in which the display is to be held; or

(2) the township fire chief or the fire chief of the municipality nearest the site proposed, in the case of a display to be held outside of the corporate limits of any city or town;

after proper inspection, is not hazardous to property or person.

(d) A permit granted under this section is not transferable.

(e) A denial of a permit by a municipality shall be issued in writing before the date of the display.

(f) A person ~~who possesses, transports, or delivers~~ **may not possess, transport, or deliver special** fireworks, except as authorized under this section. ~~commits a Class A misdemeanor.~~

Page 6, delete line 42.

Page 7, delete line 1.

Page 7, line 2, delete "discharge location;" and insert "**trained and experienced in using consumer fireworks;**".

Page 8, delete lines 9 through 42, begin a new paragraph and insert: "SECTION 4. IC 22-11-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Nothing in this chapter shall be construed to prohibit:

(1) any resident wholesaler, manufacturer, importer, or distributor from selling:

(A) at wholesale fireworks not prohibited by this chapter; or

(B) **consumer** fireworks ~~not approved for sale in Indiana~~ if they are to be ~~shipped directly out of state within five (5) days of the date of sale;~~ **used:**

(i) **on the property of the purchaser;**

(ii) **on the property of another who has given permission to use the consumer fireworks; or**

(iii) **at a special discharge location as set forth in section 3.5 of this chapter;**

(2) the use of fireworks by railroads or other transportation agencies for signal purposes or illumination;

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- (3) the sale or use of blank cartridges for:
    - (A) a show or theater;
    - (B) signal or ceremonial purposes in athletics or sports; or
    - (C) use by military organizations;
  - (4) the intrastate sale of fireworks not approved for sale in Indiana between interstate wholesalers;
  - (5) the possession, sale, or disposal of fireworks, incidental to the public display of Class B fireworks, by wholesalers or other persons who possess a permit to possess, store, and sell Class B explosives from the Bureau of Alcohol, Tobacco, ~~and~~ **Firearms and Explosives of the** United States Department of ~~the Treasury;~~ **Justice;** or
  - (6) the use of indoor pyrotechnics special effects material before an indoor or outdoor proximate audience.
- (b) For the purposes of this section, a resident wholesaler, importer, or distributor, is a person who:
- (1) is a resident of Indiana;
  - (2) possesses for resale ~~common~~ fireworks approved or not approved for sale in Indiana;
  - (3) is engaged in the interstate sale of ~~common~~ fireworks described in subdivision (2) as an essential part of a business that is located in a permanent structure and is open at least six (6) months each year; **and**
  - (4) sells ~~common~~ fireworks described in subdivision (2) only to purchasers who provide a written and signed assurance that the fireworks are to be shipped out of Indiana within five (5) days of the date of sale; **and**
  - ~~(5)~~ (4) has possession of a certificate of compliance issued by the state fire marshal under section 5 of this chapter.
- ~~(c) A purchaser may not provide a written and signed assurance that the fireworks purchased are to be shipped out of Indiana and then sell or use them in Indiana.~~

SECTION 5. IC 22-11-14-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.5. (a) A retailer may sell consumer fireworks from a tent under the following conditions:**

- (1) The tent may not be larger than one thousand five hundred (1,500) square feet.
- (2) There may be only one (1) tent for each registration granted under section 5(b)(3) of this chapter.
- (3) The tent may not be located closer than one hundred (100) feet from a permanent structure.



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(4) A vehicle may not be parked closer than twenty (20) feet from the edge of the tent.

(5) The tent must be fire retardant.

(6) The sales site must comply with all applicable local zoning and land use rules.

(7) Sales of fireworks may be made from the tent for not more than forty-five (45) days in a year.

(8) The gross weight of consumer fireworks in a tent, other than those set forth in section 8(a) of this chapter, may not exceed one thousand five hundred (1,500) pounds of product.

(9) A retailer that legally operated a tent with a registration in 2005 may continue operation in a tent in 2006 and the following years. A registration under section 5(b)(3) of this chapter is required for operation in 2006 and following years.

(10) The retailer holds a valid registration under section 5(b)(3) of this chapter.

(b) This subsection does not apply to a retailer of fireworks who conducts operations from a structure that complies with the requirements for an H-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission. A retailer may sell consumer fireworks from a structure under the following conditions:

(1) The structure must be a Class 1 structure used for the sale and storage of fireworks 1.4G (Class C common fireworks).

(2) The sales site must comply with all applicable local zoning and land use rules.

(3) The gross weight of consumer fireworks in the structure, other than those set forth in section 8(a) of this chapter, may not exceed one thousand five hundred (1,500) pounds of product.

(4) The structure may not exceed fifteen thousand (15,000) square feet in total area unless the structure was in existence and was registered under section 5(b)(3) of this chapter in 2005.

(5) The retailer holds a valid registration under section 5(b)(3) of this chapter.

(6) A retailer that legally operated from a structure with a registration in 2005 may continue in operation in the structure in 2006 and the following years. A registration under section 5(b)(3) of this chapter is required for operation in 2006 and following years.

(c) The state fire marshal or a member of the division of fire and

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**building safety staff shall, under section 9 of this chapter, inspect tents and structures in which common fireworks are sold.**

SECTION 6. IC 22-11-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The state fire marshal shall remove at the expense of the owner, all stocks of fireworks or combustibles possessed, transported, or delivered in violation of this chapter.

(b) The state fire marshal shall stop the shipments and sale of fireworks, novelties, and trick noisemakers unless, prior to shipment into this state for sale, the manufacturer, wholesaler, importer, or distributor of the fireworks, novelties, and trick noisemakers submits to the state fire marshal:

- (1) a complete description of each item proposed to be shipped into Indiana;
- (2) a written certification that the items are manufactured in accordance with section 1 of this chapter; and
- (3) an annual registration fee of ~~one thousand~~ **seven hundred fifty dollars (\$750) for the first location and an additional registration fee of seven hundred fifty dollars (\$750) for each other location from which consumer fireworks are to be offered for sale for use at a special discharge location. The registration fee shall be deposited in the fire and building services fund as set forth in IC 22-12-6-1(c).**

If upon inspection the state fire marshal finds that this chapter has been complied with, an annual certificate of compliance shall be issued to the manufacturer, wholesaler, importer, or distributor. An annual certificate of compliance **may not be applied for after June 15 of a year and** expires December 31 of the year ~~during~~ in which the certificate is issued. Each manufacturer, wholesaler, importer, or distributor must obtain a certificate of compliance. The certificate is not transferable. ~~except that~~ A retailer that offers the items for sale to the public is entitled to receive a certified copy of the certificate from the manufacturer, wholesaler, importer, or distributor from which the retailer purchases the items. A certified copy of the certificate of compliance must be posted in each location where the items are offered for sale to the public. If upon inspection the state fire marshal finds that this chapter has not been complied with, the state fire marshal shall refuse to issue a certificate of compliance and state the reasons for the refusal. A copy of the order denying the issuance of a certificate of compliance and the reasons shall be forwarded to the manufacturer, wholesaler, importer, or distributor. The state fire marshal may revoke any certificate of compliance issued to any manufacturer, wholesaler,

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importer, or distributor if the holder of the certificate has violated this chapter.

(c) All fireworks, novelties, and trick noisemakers shipped into Indiana, or manufactured and sold in Indiana, must have distinctly and durably painted, stamped, printed, or marked on the package, box, or container in which the items are enclosed the exact number of pieces in the container.

(d) It is unlawful for a manufacturer, wholesaler, importer, or distributor to sell at wholesale, offer to sell at wholesale, or ship or cause to be shipped into Indiana fireworks, novelties, or trick noisemakers unless the manufacturer, wholesaler, importer, or distributor has been issued and holds a valid certificate of compliance issued under subsection (b). This subsection applies to nonresidents and residents of Indiana.

SECTION 7. IC 22-11-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A person who violates ~~section 4(c); section 2(f), 4.5, 5(c), 5(d), 7, or 8~~ **8(a), 8(c), 8(d), or 10** of this chapter commits a Class A misdemeanor.

**(b) A person who ignites, discharges, or uses consumer fireworks other than those described in section 8(a) of this chapter at a site other than:**

- (1) a special discharge location;**
- (2) the property of the person; or**
- (3) the property of another who has given permission to use the consumer fireworks;**

**commits a Class C infraction. However, if a person commits an offense under this subsection not later than five (5) years after the date of the commission of a prior offense, the person commits a Class B infraction.**

**(c) A person commits a Class B misdemeanor if the person recklessly, knowingly, or intentionally uses consumer fireworks other than those described in section 8(a) of this chapter and the violation causes harm to the property of a person.**

**(d) A person commits a Class A misdemeanor if the person recklessly, knowingly, or intentionally uses consumer fireworks other than those described in section 8(a) of this chapter and the violation results in serious bodily injury to a person.**

**(e) A person commits a Class D felony if the person recklessly, knowingly, or intentionally uses consumer fireworks other than those described in section 8(a) of this chapter and the violation results in the death of a person.**

**(f) A person commits a Class D felony if the person knowingly**

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**fails to collect or remit the public safety fees due under section 14 of this chapter to the state.**

SECTION 8. IC 22-11-14-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a)** A person shall not sell at retail, or offer for sale at retail, any **consumer** fireworks, novelties, or trick noisemakers **to a person less than eighteen (18) years of age** other than the following:

- (1) Dipped sticks or wire sparklers. However, total pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item.
- (2) Cylindrical fountains.
- (3) Cone fountains.
- (4) Illuminating torches.
- (5) Wheels.
- (6) Ground spinners.
- (7) Flitter sparklers.
- (8) Snakes or glow worms.
- (9) Smoke devices.
- (10) Trick noisemakers, which include:
  - (A) Party poppers.
  - (B) Booby traps.
  - (C) Snappers.
  - (D) Trick matches.
  - (E) Cigarette loads.
  - (F) Auto burglar alarms.

**(b) A retailer or wholesaler of consumer fireworks may sell consumer fireworks to a person at least eighteen (18) years of age.**

**(c) A retailer or wholesaler of consumer fireworks other than those listed in subsection (a) may not knowingly or intentionally fail to:**

- (1) request photographic identification of a purchaser who appears to be less than twenty-five (25) years of age; or**
- (2) record the following information regarding a sale:**
  - (A) The purchaser's name.**
  - (B) The purchaser's address.**
  - (C) The date of the sale.**
  - (D) The age of the purchaser.**

**The seller shall keep the record of the sale for not less than one (1) year and shall make the record available to the state fire marshal upon request.**

**(d) An individual who sells consumer fireworks other than those**

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listed in subsection (a) must be at least eighteen (18) years of age.

SECTION 9. IC 22-11-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. ~~(a)~~ Each interstate wholesaler shall keep a record of each sale of **special** fireworks. ~~not approved for sale in Indiana.~~ This record must include:

- (1) the purchaser's name;
- (2) the purchaser's address; and
- (3) the date of the sale.

These records shall be kept for three (3) years and be available for inspection by the fire marshal.

(b) Each resident wholesaler shall post in a prominent location in the wholesaler's place of business a sign that reads as follows:

"Under Indiana law, a resident wholesaler of fireworks may sell fireworks not approved for sale in Indiana only to other resident wholesalers and to purchasers who provide a written and signed assurance that the fireworks are to be shipped out of Indiana within five (5) days of the date of sale. A purchaser who provides a written and signed assurance that fireworks purchased are to be shipped out of Indiana within five (5) days of the date of sale and who then sells the fireworks in Indiana or uses them in Indiana commits a Class A misdemeanor, which is punishable by imprisonment for up to one (1) year and a fine of up to five thousand dollars (\$5,000)."

The state fire marshal shall provide interstate wholesalers with signs for the purposes of this subsection.

SECTION 10. IC 22-11-14-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 11. (a) A user fee, known as the public safety fee, is imposed on retail transactions made in Indiana of consumer fireworks.

(b) The person who acquires consumer fireworks in a retail transaction is liable for the public safety fee on the transaction and, except as otherwise provided in this chapter, shall pay the public safety fee to the retailer as a separate added amount to the consideration in the transaction. The retailer shall collect the public safety fee as agent for the state.

(c) The public safety fee shall be paid to the department to be used for the following purposes:

- (1) The provision of funds for disaster relief for all Indiana state and local governments under IC 10-19-4-2.
- (2) The development and provision of training programs for public safety service providers under IC 10-19-9-3.

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(3) The establishment and conduct of advanced training programs in public safety and homeland security subjects under IC 10-19-9-4.

The executive director of the department appointed under IC 10-19-3-1 shall determine the distribution of the funds received by the department from the public safety fee.

(d) The fire prevention and building safety commission shall adopt rules under IC 4-22-2 necessary for the administration of the collection and distribution of the public safety fee monies from retailers as described in subsections (b) and (c) and in section 13 of this chapter.

SECTION 11. IC 22-11-14-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 12. (a) The public safety fee is measured by the gross retail income received by a retailer in a retail unitary transaction of consumer fireworks and is imposed at the following rates:

PUBLIC SAFETY FEE	GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION		
\$ 0		less than	\$0.25
\$ 0.01	at least \$ 0.25	but less than	\$0.50
\$ 0.02	at least \$ 0.50	but less than	\$0.75
\$ 0.03	at least \$ 0.75	but less than	\$1.00
\$ 0.04	at least \$ 1.00		

On a retail unitary transaction in which the gross retail income received by the retail merchant is one dollar (\$1) or more, the public safety fee is four percent (4%) of that gross retail income.

(b) If the public safety fee, computed under subsection (a), results in a fraction of one-half cent (\$0.005) or more, the amount of the public safety fee shall be rounded to the next additional cent.

SECTION 12. IC 22-11-14-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 13. (a) A retailer liable for collecting the public safety fee from a purchaser shall file a return for each calendar month and pay the public safety fees that the retailer has collected during that month. A retailer shall file the retailer's return for a particular month with the department and make the retailer's payment of the public safety fees collected for that month to the department not more than thirty (30) days after the end of that month.



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(b) Instead of the twelve (12) monthly reporting periods required by subsection (a), the department may permit a person to divide a year into a different number of reporting periods. The return and payment for each reporting period is due not more than twenty (20) days after the end of the period.

(c) Instead of the reporting periods required under subsection (a), the department may permit a retailer to report and pay the retailer's public safety fees for a period covering a calendar year, if the retailer's public safety fee liability for a calendar year does not exceed seventy-five dollars (\$75). A retailer reporting under this subsection must file the retailer's return and pay the retailer's public safety fee liability not later than the last day of January immediately following the close of the prior calendar year.

SECTION 13. IC 22-11-14-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: **Sec. 14. An individual who:**

- (1) is an individual retailer or is an employee, an officer, or a member of a corporate or partnership retailer; and
- (2) has a duty to remit the public safety fee as described in section 11 of this chapter to the department of homeland security;

holds the public safety fees collected in trust for the state and is personally liable for the payment of the public safety fee money to the state.

SECTION 14. IC 22-11-14-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15. The fire prevention and building safety commission shall adopt rules under IC 4-22-2 to carry out this chapter.**

SECTION 15. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 22-11-14-2(a), as amended by this act, IC 22-11-14-11(d), as added by this act, and IC 22-11-14-15, as added by this act, the fire prevention and building safety commission shall carry out the duties imposed upon it by IC 22-11-14-2(a), as amended by this act, IC 22-11-14-11(d), as added by this act, and IC 22-11-14-15, as added by this act, under interim written guidelines approved by the state fire marshal.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are last adopted under IC 22-11-14-2(a), as amended by this act, IC 22-11-14-11(d), as added by this act, and IC 22-11-14-15, as added by this act.
- (2) December 31, 2007."

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Delete pages 9 through 12.  
 Page 13, delete lines 1 through 32.  
 Renumber all SECTIONS consecutively.

(Reference is to HB 1099 as printed January 27, 2006.)

FRIZZELL

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1099 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 8, line 22, after "location." insert **"Permit fees shall be paid to the municipality or the township in which the special discharge location will be located."**

Page 10, line 13, delete "gross".

Page 10, line 13, delete ", other".

Page 10, line 14, delete "than those set forth in section 8(a) of this chapter,".

Page 10, line 15, delete "one" and insert **"three"**.

Page 10, line 15, delete "five hundred (1,500)" and insert **"(3,000) gross"**.

Page 10, line 15, delete "product." and insert **"consumer fireworks."**

Page 10, line 21, after "chapter." insert **"For purposes of this subdivision, a retailer includes a resident wholesaler who supplied consumer fireworks to an applicant for a tent registration in 2005."**

**(b) A retailer may sell consumer fireworks from a Class 1 structure (as defined in IC 22-12-1-4) that:**

**(1) complied with the rules for a B-2 or M building occupancy prior to July 4, 2003, under the Indiana building code adopted by the fire prevention and building commission established under IC 22-12-2-1;**

**(A) in which 1.4G fireworks were sold or stored on or before July 4, 2003; and**

**(B) in which no subsequent intervening non-fireworks sales or storage use has occurred; or**

**(2) complies with the rules for an H-3 building occupancy under the Indiana building code adopted by the fire prevention and building commission established under IC 22-12-2-1, or the equivalent occupancy classification**

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adopted by subsequent rules of the fire prevention and building commission.

**A registration under section 5(b)(3) of this chapter is required for operation in 2006 and following years."**

Page 10, delete lines 22 through 25.

Page 10, line 26, delete "building safety commission."

Page 10, line 26, before "A" begin a new paragraph and insert: "(c)".

Page 10, line 32, delete "gross".

Page 10, line 32, delete "structure," and insert "**structure**".

Page 10, line 33, delete "other than those set forth in section 8(a) of this chapter,".

Page 10, line 34, delete "one" and insert "**three**".

Page 10, line 34, delete "five hundred (1,500)" and insert "**(3,000) gross**".

Page 10, line 35, delete "product." and insert "**consumer fireworks**".

Page 10, delete lines 36 through 39.

Page 10, line 40, delete "(5)" and insert "**(4)**".

Page 10, line 42, delete "(6)" and insert "**(5)**".

Page 11, line 5, delete "(c)" and insert "**(d)**".

Page 11, line 22, reset in roman "one thousand".

Page 11, line 22, delete "seven hundred".

Page 11, line 23, delete "fifty".

Page 11, line 23, reset in roman "(\$1,000)".

Page 11, line 23, delete "(\$750)".

Page 11, line 23, delete "an" and insert "**a**".

Page 11, delete lines 24 through 28, begin a new line block indented and insert:

**"registration fee of:**

**(A) two hundred dollars (\$200) for each additional sales location in a structure; and**

**(B) five hundred dollars (\$500) for each additional sales location in a tent;**

**from which consumer fireworks are to be offered for sale. The registration fee shall be deposited in the fire and building services fund as set forth in IC 22-12-6-1(c)."**

Page 16, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 15. IC 35-47-7-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) If:**

**(1) a practitioner (as defined in IC 25-1-9-2) initially treats a**

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person for an injury and identifies the person's injury as resulting from fireworks or pyrotechnics, the practitioner; or  
 (2) a hospital or outpatient surgical center initially treats a person for an injury and the administrator of the hospital or outpatient surgical center identifies the person's injury as resulting from fireworks or pyrotechnics, the administrator or the administrator's designee;

shall report the case to the state health data center of the state department of health not more than five (5) business days after the time the person is treated. The report may be made in writing on a form prescribed by the state department of health.

(b) A person submitting a report under subsection (a) shall make a reasonable attempt to include the following information:

- (1) The name, address, and age of the injured person.
- (2) The date and time of the injury and the location where the injury occurred.
- (3) If the injured person was less than eighteen (18) years of age, whether an adult was present when the injury occurred.
- (4) Whether the injured person consumed an alcoholic beverage within three (3) hours before the occurrence of the injury.
- (5) A description of the firework or pyrotechnic that caused the injury.
- (6) The nature and extent of the injury.

(c) A report made under this section is considered confidential for purposes of IC 5-14-3-4(a)(1).

(d) The state department of health shall compile the data collected under this section and submit in an electronic format under IC 5-14-6 a report of the compiled data to the legislative council not later than December 31 of each year.

SECTION 16. IC 35-47-7-6 IS REPEALED [EFFECTIVE UPON PASSAGE]."

Renumber all SECTIONS consecutively

(Reference is to HB 1099 as reprinted February 1, 2006.)

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## COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1099, begs leave to report that said bill has been amended as directed.

FRIZZELL

## COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1099, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety and to make an appropriation.

Page 5, delete lines 13 through 14.

Page 6, line 1, after "individuals" insert "**in accordance with rules adopted under section 3.5 of this chapter**".

Page 7, line 18, delete "(a) After application to" and insert "**The fire prevention and building safety commission may adopt rules under IC 4-22-2 that specify the conditions under which the chief of a municipal or township fire department may grant a permit to a person to sponsor a special discharge location in the municipality or township.**".

Page 7, delete lines 19 through 42.

Page 8, delete lines 1 through 33.

Page 11, delete lines 34 through 39, begin a new line block indented and insert:

"(3) an annual registration fee of:

(A) one thousand dollars (\$1,000) **for the first location;**

(B) **five hundred dollars (\$500) for each additional sales location in a tent; and**

(C) **two hundred dollars (\$200) for each additional sales location in a structure;**".

Page 11, line 41, after "be" insert "**collected by the department of state revenue and**".

Page 12, line 37, delete "8(d)".

Page 12, delete lines 38 through 42, begin a new paragraph and insert:

"(b) **A person who ignites, discharges, or uses consumer**

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fireworks other than those described in section 8(a) of this chapter at a site other than:

- (1) a special discharge location;
- (2) the property of the person; or
- (3) the property of another who has given permission to use the consumer fireworks;

commits a Class C infraction. However, if a person takes an action described in this subsection not later than five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(c) A person less than eighteen (18) years of age who:

(1) possesses a:

- (A) consumer firework;
- (B) novelty; or
- (C) trick noisemaker;

other than those set forth in section 8(a) of this chapter; or

(2) uses a consumer firework when an adult is not present and responsible at the location of the use;

commits a Class C infraction. However, if a person possesses as described in subdivision (1) or uses as described in subdivision (2) not later than five (5) years after a previous possession or use by the person as described in this subsection, whether or not there has been a judgment that the person committed an infraction in the previous possession or use, the person commits a Class C misdemeanor.

(d) A person commits a Class A misdemeanor if the person recklessly, knowingly, or intentionally uses consumer fireworks other than those described in section 8(a) of this chapter and the violation causes harm to the property of a person.

(e) A person commits a Class D felony if the person recklessly, knowingly, or intentionally uses consumer fireworks other than those described in section 8(a) of this chapter and the violation results in serious bodily injury to a person.

(f) A person commits a Class C felony if the person recklessly, knowingly, or intentionally uses consumer fireworks other than those described in section 8(a) of this chapter and the violation results in the death of a person.

(g) A person commits a Class D felony if the person knowingly fails to collect or remit to the state the public safety fees due under section 11 of this chapter.

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SECTION 8. IC 22-11-14-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE] 1: Sec. 7. (a) A retailer selling fireworks at one (1) or more temporary stands must obtain a fireworks stand retail sales permit, referred to in this section as a "permit", from the state fire marshal.

(b) An application for a permit must be made before June 1 of each year and must require that at least the following information be supplied by the retailer:

- (1) The retailer's retail merchant certificate number or proof of application for a certificate number.
- (2) The location of each stand.

The state fire marshal shall, within seven (7) days after the receipt of an application for a permit, either issue the permit or notify the applicant of the denial of the permit.

(c) The retailer must pay to the state fire marshal an annual permit fee set under IC 22-12-6-8. If the state fire marshal approves an application for a permit, he shall issue a permit to the retailer. The permit expires one (1) year after the date of issuance.

(d) The permit shall be posted by the retailer at the stand so that it is easily seen by the public. However, the state fire marshal's issuance of a permit does not constitute approval of the fireworks offered for sale by the retailer. The retailer is responsible for determining that all fireworks which he offers for sale conform to applicable law.

(e) At each stand, the retailer shall provide:

- (1) a posted certificate of compliance, including a descriptive list of approved fireworks; and
- (2) a supervisor who is at least sixteen (16) years of age.

(f) Fireworks may not be sold at retail from ~~trucks, vans, or automobiles~~; **a motor vehicle (as defined in IC 9-13-2-105).**

SECTION 9. IC 22-11-14-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a)** A person shall not sell at retail, ~~or~~ offer for sale at retail, **or deliver** any **consumer** fireworks, novelties, or trick noisemakers **to a person less than eighteen (18) years of age** other than the following:

- (1) Dipped sticks or wire sparklers. However, total pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item.
- (2) Cylindrical fountains.
- (3) Cone fountains.
- (4) Illuminating torches.
- (5) Wheels.

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- (6) Ground spinners.
- (7) Flitter sparklers.
- (8) Snakes or glow worms.
- (9) Smoke devices.
- (10) Trick noisemakers, which include:
  - (A) Party poppers.
  - (B) Booby traps.
  - (C) Snappers.
  - (D) Trick matches.
  - (E) Cigarette loads.
  - (F) Auto burglar alarms.

**(b) A retailer or wholesaler of consumer fireworks may sell consumer fireworks to a person at least eighteen (18) years of age.**

**(c) An individual who sells consumer fireworks other than those listed in subsection (a) must be at least eighteen (18) years of age.**

**(d) The fire prevention and building safety commission may adopt rules under IC 4-22-2 establishing procedures to ensure compliance with the age limitations set forth in this section.**

SECTION 10. IC 22-11-14-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. A person is strictly liable for death, bodily injury, or property damage caused by that person's use of consumer fireworks."**

Delete page 13.

Page 14, delete lines 1 through 20.

Page 15, line 14, delete "paid to the department to be" and insert **"deposited in the state general fund."**

Page 15, delete lines 15 through 25.

Page 15, line 26, delete "fire prevention and building safety commission" and insert **"department of state revenue"**.

Page 15, line 27, delete "administration of the".

Page 15, line 28, delete "and distribution".

Page 16, delete lines 10 through 32.

Page 16, line 39, delete "homeland".

Page 16, line 40, delete "security;" and insert **"state revenue;"**.

Page 17, line 5, after "commission" insert **"and the department of state revenue"**.

Page 18, delete lines 1 through 13, begin a new paragraph and insert:

**"SECTION 18. [EFFECTIVE UPON PASSAGE] The department of homeland security shall report to the budget committee by July 1, 2006, on the feasibility of the following:**

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**(1) Creating a regional program to:**

**(A) train public safety service providers under IC 10-19-9-3; and**

**(B) provide advanced training programs in public safety and homeland security matters under IC 10-19-9-4.**

**The report must set out the need for the training, identify possible locations where training could take place, provide an estimate of the costs for providing such training, and include other things the department determines to be relevant.**

**(2) Establishing a state disaster relief fund to provide:**

**(A) matching financial assistance to state agencies and political subdivisions under any federal program; and**

**(B) direct aid to individuals, families, or communities in the event that an emergency event does not receive a presidential major disaster declaration.**

**SECTION 19. [EFFECTIVE UPON PASSAGE] There is appropriated from the fees collected under IC 22-11-14-11, as added by this act, one million dollars (\$1,000,000) to the department of homeland security to provide regional training for public safety service providers or advanced training programs during the period beginning July 1, 2006, and ending June 30, 2007. Funds appropriated by this SECTION may be allotted by the budget agency after review by the budget committee."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1099 as reprinted February 3, 2006.)

KENLEY, Chairperson

Committee Vote: Yeas 8, Nays 2.

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**SENATE MOTION**

Madam President: I move that Engrossed House Bill 1099 be amended to read as follows:

Page 2, strike lines 16 through 19.

Page 2, line 20, strike (B) and insert "(A)".

Page 2, line 23, strike "(C)" and insert "(B)".

Page 2, line 25, strike "(D)" and insert "(C)".

Page 3, line 29, delete "fireworks and" and insert "fireworks, fireworks referenced in section 8(a) of this chapter, and".

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Page 5, between lines 12 and 13, begin a new paragraph and insert:  
**""Responding fire department" means the paid fire department or volunteer fire department that renders fire protection services to a political subdivision."**

Delete pages 9 through 16.

Page 17, delete lines 1 through 22, begin a new line block indented and insert:

**"and land use rules.**

**(7) Sales of fireworks may be made from the tent for not more than forty-five (45) days in a year.**

**(8) The weight of consumer fireworks in a tent may not exceed three thousand (3,000) gross pounds of consumer fireworks.**

**(9) A retailer that legally operated a tent with a registration in 2005 may continue operation in a tent in 2006 and the following years. A registration under section 5(b)(3) of this chapter is required for operation in 2006 and following years.**

**(10) The retailer holds a valid registration under section 5(b)(3) of this chapter. For purposes of this subdivision, a retailer includes a resident wholesaler who supplied consumer fireworks to an applicant for a tent registration in 2005.**

**(b) A retailer may sell consumer fireworks from a Class 1 structure (as defined in IC 22-12-1-4) that:**

**(1) complied with the rules for a B-2 or M building occupancy before July 4, 2003, under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1:**

**(A) in which consumer fireworks were sold or stored on or before July 4, 2003; and**

**(B) in which no subsequent intervening nonfireworks sales or storage use has occurred;**

**(2) complies with the rules for an H-3 building occupancy under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1, or the equivalent occupancy classification adopted by subsequent rules of the fire prevention and building safety commission;**

**(3) complied with the rules for a B-2 or M building occupancy before July 4, 2003, under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1;**

**(A) in which 1.4G fireworks were sold or stored on or before July 4, 2003;**

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(B) in a location at which the retailer was registered as a resident wholesaler in 2005; and

(C) in which the retailer's primary business is not the sale of consumer fireworks; or

(4) complies with the rules adopted after July 3, 2003, by the fire prevention and building safety commission established under IC 22-12-2-1 for an M building occupancy under the Indiana building code.

A registration under section 11(a) of this chapter is required for operation in 2006 and following years.

(c) This subsection does not apply to a structure identified in subsection (b)(1), (b)(2), (b)(3), or (b)(4). A retailer may sell consumer fireworks from a structure under the following conditions:

(1) The structure must be a Class 1 structure used for the sale and storage of consumer fireworks.

(2) The sales site must comply with all applicable local zoning and land use rules.

(3) The weight of consumer fireworks in the structure may not exceed three thousand (3,000) gross pounds of consumer fireworks.

(4) The retailer holds a valid registration under section 11(a) of this chapter.

(5) A retailer that legally operated from a structure with a registration in 2005 may continue in operation in the structure in 2006 and the following years. A registration under section 11(a) of this chapter is required for operation in 2006 and following years.

(d) The state fire marshal or a member of the division of fire and building safety staff shall, under section 9 of this chapter, inspect tents and structures in which common fireworks are sold. The state fire marshal may delegate this responsibility to a responding fire department with jurisdiction over the tent or structure subject to the policies and procedures of the state fire marshal.

(e) A retailer shall file an application for each retail location on a form to be provided by the state fire marshal.

(f) This chapter does not limit the quantity of fireworks that may be sold from any Class I structure that complies with the rules of the fire prevention and building safety commission in effect before May 21, 2003.

SECTION 6. IC 22-11-14-5 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The state fire marshal shall remove at the expense of the owner, all stocks of fireworks or combustibles possessed, transported, or delivered in violation of this chapter.

(b) The state fire marshal shall stop the shipments and sale of fireworks, novelties, and trick noisemakers unless, prior to shipment into this state for sale, the manufacturer, wholesaler, importer, or distributor of the fireworks, novelties, and trick noisemakers submits to the state fire marshal:

(1) a complete description of each item proposed to be shipped into Indiana;

(2) a written certification that the items are manufactured in accordance with section 1 of this chapter; and

(3) an annual registration fee of one thousand dollars (\$1,000).

**The registration fee shall be collected by the state fire marshal and deposited in the fire and building services fund as set forth in IC 22-12-6-1(c).**

If upon inspection the state fire marshal finds that this chapter has been complied with, an annual certificate of compliance shall be issued to the manufacturer, wholesaler, importer, or distributor. An annual certificate of compliance **may not be applied for after June 15 of a year and** expires December 31 of the year **during in** which the certificate is issued. Each manufacturer, wholesaler, importer, or distributor must obtain a certificate of compliance. The certificate is not transferable. ~~except that A retailer that offers the items for sale to the public is entitled to receive a certified copy of the certificate from the manufacturer, wholesaler, importer, or distributor from which the retailer purchases the items.~~ A certified copy of the certificate of compliance must be posted in each location where the items are offered for sale to the public. If upon inspection the state fire marshal finds that this chapter has not been complied with, the state fire marshal shall refuse to issue a certificate of compliance and state the reasons for the refusal. A copy of the order denying the issuance of a certificate of compliance and the reasons shall be forwarded to the manufacturer, wholesaler, importer, or distributor. The state fire marshal may revoke any certificate of compliance issued to any manufacturer, wholesaler, importer, or distributor if the holder of the certificate has violated this chapter.

(c) All fireworks, novelties, and trick noisemakers shipped into Indiana, or manufactured and sold in Indiana, must have distinctly and durably painted, stamped, printed, or marked on the package, box, or container in which the items are enclosed the exact number of pieces

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in the container.

(d) It is unlawful for a manufacturer, wholesaler, importer, or distributor to sell at wholesale, offer to sell at wholesale, or ship or cause to be shipped into Indiana fireworks, novelties, or trick noisemakers unless the manufacturer, wholesaler, importer, or distributor has been issued and holds a valid certificate of compliance issued under subsection (b). This subsection applies to nonresidents and residents of Indiana.

SECTION 7. IC 22-11-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A person who **recklessly, knowingly, or intentionally** violates ~~section 4(c);~~ **section 2(f), 4.5, 5(c), 5(d), 7, or 8 8(a), 8(c), 10, or 11 (b)** of this chapter commits a Class A misdemeanor.

**(b) A person who ignites, discharges, or uses consumer fireworks at a site other than:**

- (1) a special discharge location;**
- (2) the property of the person; or**
- (3) the property of another who has given permission to use the consumer fireworks;**

**commits a Class C infraction. However, if a person recklessly, knowingly, or intentionally takes an action described in this subsection not later than five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.**

**(c) A person less than eighteen (18) years of age who:**

- (1) possesses a:**
  - (A) firework;**
  - (B) novelty; or**
  - (C) trick noisemaker;****other than those set forth in section 8(a) of this chapter; or**
- (2) uses a firework when an adult is not present and responsible at the location of the use;**

**commits a Class C infraction. However, if a person possesses as described in subdivision (1) or uses as described in subdivision (2) not later than five (5) years after a previous possession or use by the person as described in this subsection, whether or not there has been a judgment that the person committed an infraction in the previous possession or use, the person commits a delinquent act under IC 31-37.**

**(d) A person who recklessly, knowingly, or intentionally uses**

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consumer fireworks and the violation causes harm to the property of a person commits a Class A misdemeanor.

(e) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in serious bodily injury to a person v commits a Class D felony.

(f) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in the death of a person commits a Class C felony.

(g) A person who knowingly fails to collect or remit to the state the public safety fees due under section 11 of this chapter commits a Class D felony.

SECTION 8. IC 22-11-14-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE] 1: Sec. 7. (a) A retailer selling fireworks at one (1) or more temporary stands must obtain a fireworks stand retail sales permit, referred to in this section as a "permit", from the state fire marshal.

(b) An application for a permit must be made before June 1 of each year and must require that at least the following information be supplied by the retailer:

- (1) The retailer's retail merchant certificate number or proof of application for a certificate number.
- (2) The location of each **retail sales** stand.

The state fire marshal shall, within seven (7) days after the receipt of an application for a permit, either issue the permit or notify the applicant of the denial of the permit.

(c) The retailer must pay to the state fire marshal an annual permit fee set under IC 22-12-6-8. If the state fire marshal approves an application for a permit, ~~he~~ **the state fire marshal** shall issue a permit to the retailer. The permit expires one (1) year after the date of issuance.

(d) The permit shall be posted by the retailer at the **retail sales** stand so that it is easily seen by the public. However, the state fire marshal's issuance of a permit does not constitute approval of the fireworks offered for sale by the retailer. The retailer is responsible for determining that all fireworks which ~~he~~ **the retailer** offers for sale conform to applicable law.

(e) At each **retail sales** stand, the retailer shall provide:

- (1) a posted certificate of compliance, including a descriptive list of approved fireworks; and
- (2) a ~~supervisor~~ **salesperson** who is at least ~~sixteen (16)~~ **eighteen (18)** years of age.

(f) Fireworks may not be sold at retail from ~~trucks, vans, or~~

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~~automobiles~~; **a motor vehicle (as defined in IC 9-13-2-105).**

SECTION 9. IC 22-11-14-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a)** A person shall not sell at retail, ~~or~~ offer for sale at retail, **or deliver** any fireworks, novelties, or trick noisemakers **to a person less than eighteen (18) years of age** other than the following:

- (1) Dipped sticks or wire sparklers. However, total pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item.
- (2) Cylindrical fountains.
- (3) Cone fountains.
- (4) Illuminating torches.
- (5) Wheels.
- (6) Ground spinners.
- (7) Flitter sparklers.
- (8) Snakes or glow worms.
- (9) Smoke devices.
- (10) Trick noisemakers, which include:
  - (A) Party poppers.
  - (B) Booby traps.
  - (C) Snappers.
  - (D) Trick matches.
  - (E) Cigarette loads.
  - (F) Auto burglar alarms.

**(b) A retailer or wholesaler of consumer fireworks may sell consumer fireworks to a person at least eighteen (18) years of age.**

**(c) An individual who sells fireworks must be at least eighteen (18) years of age.**

**(d) The fire prevention and building safety commission may adopt rules under IC 4-22-2 establishing procedures to ensure compliance with the age limitations set forth in this section.**

SECTION 10. IC 22-11-14-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. A person is strictly liable for death, bodily injury, or property damage caused by that person's use of consumer fireworks.**

SECTION 11. IC 22-11-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. ~~(a)~~ Each interstate wholesaler shall keep a record of each sale of **special** fireworks. ~~not approved for sale in Indiana~~. This record must include:

- (1) the purchaser's name;

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- (2) the purchaser's address; and
- (3) the date of the sale.

These records shall be kept for three (3) years and be available for inspection by the fire marshal.

(b) Each resident wholesaler shall post in a prominent location in the wholesaler's place of business a sign that reads as follows:

"Under Indiana law, a resident wholesaler of fireworks may sell fireworks not approved for sale in Indiana only to other resident wholesalers and to purchasers who provide a written and signed assurance that the fireworks are to be shipped out of Indiana within five (5) days of the date of sale. A purchaser who provides a written and signed assurance that fireworks purchased are to be shipped out of Indiana within five (5) days of the date of sale and who then sells the fireworks in Indiana or uses them in Indiana commits a Class A misdemeanor, which is punishable by imprisonment for up to one (1) year and a fine of up to five thousand dollars (\$5,000)."

The state fire marshal shall provide interstate wholesalers with signs for the purposes of this subsection.

SECTION 12. IC 22-11-14-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2006]: **Sec. 11. (a) A retailer may not sell consumer fireworks until the retailer has:**

- (1) filed the application required under section 4.5(e) of this chapter with the state fire marshal for each location from which the retailer proposes to sell the consumer fireworks, which must be filed on an annual basis; and
- (2) paid an accompanying registration fee of:
  - (A) one thousand dollars (\$1,000) for the first location if a fee under section 5(b)(3) of this chapter has not been paid;
  - (B) five hundred dollars (\$500) for each additional sales location in a tent; and
  - (C) two hundred dollars (\$200) for each additional sales location in a structure;

from which the retailer proposes to sell the consumer fireworks.

Upon receipt of the completed application form, the accompanying fee and if required, the affidavit under subsection (b), the state fire marshal shall issue a certificate of compliance to the retailer for each sales location.

(b) A person seeking a certificate of compliance authorizing the sale of consumer fireworks at retail from a structure identified in

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section (5)(b)(1), 5(b)(2), 5(b)(3), or 5(b)(4) of this chapter, or from a tent under section 5(a) of this chapter shall submit with the application:

- (1) an affidavit executed by a responsible party with personal knowledge, establishing that consumer fireworks were sold at retail from a structure at the same location as of the dates set forth in section 5(b)(1), 5(b)(2), 5(b)(3), or 5(b)(4) of this chapter, or from a tent under section 5(a) of this chapter; and
- (2) proof of sales of consumer fireworks from that location.

(c) A person may not sell consumer fireworks at retail if a certificate of compliance from the state fire marshal has not been issued for the location at which the consumer fireworks will be sold.

(d) A certificate of compliance issued to a retailer of consumer fireworks is not transferable.

SECTION 13. IC 22-11-14-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 12. (a) A user fee, known as the public safety fee, is imposed on retail transactions made in Indiana of fireworks.

(b) The person who acquires fireworks in a retail transaction is liable for the public safety fee on the transaction and, except as otherwise provided in this chapter, shall pay the public safety fee to the retailer as a separate added amount to the consideration in the transaction. The retailer shall collect the public safety fee as an agent for the state.

(c) The public safety fee shall be deposited in the state general fund.

(d) The department of state revenue shall adopt rules under IC 4-22-2 necessary for the collection of the public safety fee monies from retailers as described in subsections (b) and (c).

SECTION 14. IC 22-11-14-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 13. (a) The public safety fee is measured by the gross retail income received by a retailer in a retail unitary transaction of fireworks and is imposed at the following rates:

PUBLIC SAFETY FEE	GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION
\$ 0	less than \$0.25



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\$ 0.01	at least \$ 0.25	but less than	\$0.50
\$ 0.02	at least \$ 0.50	but less than	\$0.75
\$ 0.03	at least \$ 0.75	but less than	\$1.00
\$ 0.04	at least \$ 1.00		

On a retail unitary transaction in which the gross retail income received by the retail merchant is at least one dollar (\$1), the public safety fee is four percent (4%) of that gross retail income.

(b) If the public safety fee computed under subsection (a) results in a fraction of one-half cent (\$0.005) or more, the amount of the public safety fee shall be rounded to the next additional cent.

SECTION 15. IC 22-11-14-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: **Sec. 14. An individual who:**

- (1) is an individual retailer or is an employee, an officer, or a member of a corporate or partnership retailer; and
- (2) has a duty to remit the public safety fee as described in section 11 of this chapter to the department of state revenue; holds the public safety fees collected in trust for the state and is personally liable for the payment of the public safety fee money to the state.

SECTION 16. IC 22-11-14-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15. The fire prevention and building safety commission and the department of state revenue shall adopt rules under IC 4-22-2 to carry out this chapter.**

SECTION 17. IC 35-47-7-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) If:**

- (1) a practitioner (as defined in IC 25-1-9-2) initially treats a person for an injury and identifies the person's injury as resulting from fireworks or pyrotechnics, the practitioner; or
- (2) a hospital or outpatient surgical center initially treats a person for an injury and the administrator of the hospital or outpatient surgical center identifies the person's injury as resulting from fireworks or pyrotechnics, the administrator or the administrator's designee;

shall report the case to the state health data center of the state department of health not more than five (5) business days after the time the person is treated. The report may be made in writing on a form prescribed by the state department of health.

(b) A person submitting a report under subsection (a) shall make a reasonable attempt to include the following information:

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- (1) The name, address, and age of the injured person.
- (2) The date and time of the injury and the location where the injury occurred.
- (3) If the injured person was less than eighteen (18) years of age at the time of the injury, whether an adult was present when the injury occurred.
- (4) Whether the injured person consumed an alcoholic beverage within three (3) hours before the occurrence of the injury.
- (5) A description of the firework or pyrotechnic that caused the injury.
- (6) The nature and extent of the injury.

(c) A report made under this section is confidential for purposes of IC 5-14-3-4(a)(1).

(d) The state department of health shall compile the data collected under this section and submit a report of the compiled data to the legislative council in an electronic format under IC 5-14-6 not later than December 31 of each year.

SECTION 18. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 22-11-14.5-2; IC 35-47-7-6.

SECTION 18. [EFFECTIVE UPON PASSAGE] The department of homeland security shall report to the budget committee by July 1, 2006, on the feasibility of the following:

- (1) Creating a regional program to:
  - (A) train public safety service providers under IC 10-19-9-3; and
  - (B) provide advanced training programs in public safety and homeland security matters under IC 10-19-9-4.

The report must set out the need for the training, identify possible locations where training could take place, provide an estimate of the costs for providing such training, and include other things the department determines to be relevant.

- (2) Establishing a state disaster relief fund to provide:
  - (A) matching financial assistance to state agencies and political subdivisions under any federal program; and
  - (B) direct aid to individuals, families, or communities if an emergency event does not receive a presidential major disaster declaration.

SECTION 19. [EFFECTIVE UPON PASSAGE] There is appropriated from the fees collected under IC 22-11-14-11, as added by this act, one million dollars (\$1,000,000) to the department of homeland security to provide regional training for

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public safety service providers or advanced training programs during the period beginning July 1, 2006, and ending June 30, 2007. Funds appropriated by this SECTION may be allotted by the budget agency after review by the budget committee.

SECTION 20. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as added by this act, the fire prevention and building safety commission shall carry out the duties imposed upon it by this act with respect to the matters referred to in IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as added by this act, under interim written guidelines approved by the state fire marshal.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are respectively adopted under IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as added by this act.

(2) December 31, 2007.

SECTION 21. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 22-11-14-12(d) and IC 22-11-14-15, both as added by this act, the department of state revenue shall carry out the duties imposed upon it by this act with respect to the matters referred to in IC 22-11-14-12(d) and IC 22-11-14-15, both as added by this act, under interim written guidelines approved by the commissioner of the department of state revenue.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are respectively adopted under IC 22-11-14-12(d) and IC 22-11-14-15, both as added by this act.

(2) December 31, 2007."

SECTION 22. An emergency is declared for this act."

(Reference is to EHB 1099 as printed February 24, 2006.)

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